IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.357 OF 2006

OFFICE NOTES, OFFICE MEMORANDUM OF CORAM, APPEARANCES, COURT'S ORDERS OR DIRECTIONS AND REGISTRAR'S ORDERS	COURT'S OR JUDGES ORDERS

Shri J.P.Akolkar for the Petitioners.
Shri S.S.Patwardhan for the Respondent Nos.1 to 5, 6, 7 and 9.

CORAM : A. S. OKA, J.

DATE : FEBRUARY 06, 2007.

P.C.:

1. Heard Advocate for the Petitioners. By this Petition under Article 227 of the Constitution of India, the Petitioners have taken exception to order dated 06th May, 2005 passed by the Trial Court on Application at Exhibit 72. The court has invoked power under Rule 2(2) of Order XIV of the Code of Civil Procedure, 1908 and based on the contentions raised by the Defendants in the written statement, preliminary issues have been framed. The preliminary issues are not yet decided. No prejudice will be caused to the Petitioner

if preliminary issues are framed and decided. An apprehension was expressed by the learned Advocate for the Petitioner that the Trial Court may not permit the parties to lead evidence on preliminary issues. The said apprehension is unfounded. If Application is made by the Petitioners seeking permission to lead evidence and if the Trial Court is satisfied that it is necessary for the Petitioners to lead evidence on preliminary issues, the Trial Court is bound to permit the parties to lead evidence.

2. Subject to what is stated above, Writ Petition is rejected.

JUDGE